

GRAND COUNTY BOARD OF ADJUSTMENT
MEETING MINUTES

Wednesday, January 15th, 2020

MEMBERS PRESENT: George Davis Marcus Davis
 Loreta Silverio

MEMBERS ABSENT: Shaun Mullahey

STAFF PRESENT: Robert Davis Alex Taft
 Patty Kemper Taylor Schlueter
 Chris Leahy

The meeting was called to order by Chairman Marcus Davis at 5:30 PM. Roll call was taken.

There was 0 persons from the general public present at the Board of Adjustment Meeting.

Motion for the minutes from the December 13th, 2019 Board of Adjustment Meeting were approved by Marcus Davis and seconded by George Davis.

Robert Davis relayed to the Board of Adjustment Commissioners that that Board of County Commissioners suggested that the Chair and Vice Chair positions be rotated each year.

Marcus Davis, Chair for Board of Adjustment asked for nominations from the Board of Adjustment Commissioners Chair and Vice Chair. George Davis nominated Marcus Davis and Loreta Silverio seconded the nomination. Marcus Davis accepted. Loreta Silverio requested to continue as Vice Chair, George Davis seconded. Possible next year the Commissioners will rotate the appointments.

Robert Davis, set the record for the Lot 21, Sheep Mountain Ridge Estates – Height Variance

LOT 21, SHEEP MOUNTAIN RIDGE ESTATES – HEIGHT VARIANCE

Presented by: Alexander Taft, Planner LEED Green Associate

Lot 21, Sheep Mountain Ridge Estates
Building Height Variance

APPLICATION: VARIANCE Pursuant to Section 16.1 of Grand County Zoning Regulations

HEARING DATES: Board of Adjustment: 15 January 2020 at 5:30 pm

APPLICANT: Jeffrey J Schott represented by Lynn Klopstad

REQUEST: A variance request to increase the maximum building height of forty feet (40') to forty one and nine tenths feet (41.9') due to topography.

LEGAL DESCRIPTION: Lot 21, Sheep Ridge Mountain Estates, According to the Plat thereof recorded March 13, 2001 at Reception No. 2001-002315, Grand County Colorado.

LOCATION: 93 GCR 51991, Samaia Court

ZONE DISTRICT: F/O - Forestry and Open District

AREA: 6.742 acres

STAFF CONTACT: Alexander Taft, LEED Green Associate

ATTACHMENTS:

- 1) Vicinity Map
- 2) Variance request letter and application
- 3) Public Notice
- 4) Proof of Publication
- 5) Memorandum to interested parties
- 6) Proposed building plans and elevations
- 7) Zoning Review

Background

History:

The property, a 6.742 acre parcel within the Sheep Mountain Ridge Estates Subdivision (Sheep Mountain) is a relatively larger parcel restricted by a building envelope. The development of Sheep Mountain consists of a 23 lot subdivision on approximately 160 acres. The building envelopes were created to reflect the goals of a Rural Growth Area by limiting the area structures can occupy.

The property is located in an unincorporated Tabernash area commonly known as Pole Creek Valley. The surrounding uses include larger lot residential, outdoor recreation, and agricultural. Much if not all of the Pole Creek Valley is located within a Rural Growth Area.

The Applicant was granted a building permit in 2018 for the construction of a new single family dwelling.

Water and sanitary service are by well and septic. Access is by way of Grand County Road 51991.

Project Description :

The subject single family dwelling was proposed to a height of forty one and nine tenths feet (41.9'). The allowable building height in the Forestry and Open District is 40' [Section XX (20) Definition (10 a - b) in Grand County Zoning Regulations]. Accordingly, the Applicant is proposing a height variance to increase the allowable maximum height of the existing building from forty feet (40') to forty one and nine tenths feet (41.9').

Proper Public Notice was placed in the Middle Park Times on December 26, 2019 as required and adjacent property owners were notified by Certified and First Class mail. Staff has received no objections to this variance request.

Compliance with Zoning Regulations

I. Zoning - Section 6, Forestry and Open Zone District

- | | |
|------------------------------------|---|
| 6.1 Use: | A new single family dwelling, allowed as a use by right. |
| 6.2 Minimum Lot Area | 6.742 Acres; required minimum is 5 acres. |
| 6.3 Minimum Lot Width | 451.11'; required minimum is 200'. |
| 6.4 Minimum Front Yard | 30' is required, new construction shall comply. Existing building envelope complies. |
| 6.5 Minimum Side Yard | 10' is required, new construction shall comply. Existing building envelope complies. |
| 6.6 Minimum Rear Yard | 20' is required, new construction shall comply. Existing building envelope complies. |
| 6.7 Maximum Building Height | 40' feet is permitted. The proposed building is forty one and nine tenths feet (41.9');
✓ PROPOSED VARIANCE |
| 6.8 Water Quality Setback | 30' is required, new construction shall comply. |

II. Zoning - Section 16, Board of Adjustment

- A. 16.1 (1). To hear and decide appeals taken by any person aggrieved by his inability to obtain a building permit or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of these regulations. Provided however, no appeal shall be allowed for building use violations that may be prosecuted pursuant to Section 19.1(2) of these regulations. The concurring vote of three (3) members of the Board of Adjustment shall be necessary to reverse a decision made by an administrative officer or agency.

The Applicant is requesting a variance to forty one and nine tenths feet (41.9') because the completed structure exceeded the height when measured by a licensed land surveyor. Based on drawings, the height was within three feet (3'), which triggered the need for verification. Staff discovered that the height exceeded the maximum allowable by twenty one inches (21') and withheld the Letter of Occupancy until a variance was granted.

B. 16.1 (2). To authorize, upon appeal in specific cases, variances to the:

- minimum area of lot;
- minimum lot width;
- minimum front yard;
- minimum side yard;
- minimum rear yard;
- maximum height of buildings;

regulations where, by reason of exceptional shape, size or topography of lot, or other exceptional situation or condition of the building or land, practical difficulty or unnecessary hardship would result to the owners of said property from a strict enforcement of these regulations.

A practical difficulty relates to a combination of change in grade and the height of the chimney resulting in a building height of forty one and nine tenths feet (41.9') when height calculations are performed. If the chimney were excluded from the height calculation, the ridge height of the building would be compliant at thirty seven and seven tenths feet (37.7'). For the height to be compliant with the 40' limit, the applicant is presented with a practical difficulty and unnecessary hardship.

16.1(3). Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any provisions of this regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of such property, the Board of Adjustment, upon an appeal relating to said property, may grant a variance from the strict application of these regulations so as to relieve such difficulties or hardships if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan and these regulations.

Staff believes that this "reason of exceptional topographic conditions or other extraordinary and exceptional situation," constitutes the need for the request. The relief from our height requirement will allow the Applicant to proceed with closing out the building permit and acquiring the Letter of Occupancy. The application of this height includes weather vanes, chimneys and other such appurtenances that in combination with the topographic conditions are a hindrance to completing the building permit. Therefore, it is Staff's opinion that relief from these standards shall not be of substantial detriment to the public good and do not impair the intent and purpose of these regulations.

C. 16.1(4). Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of these regulations in the district involved, or any use expressly or by implication prohibited by the terms of these regulations in said district.

Granting of this variance would not result in a non-permitted use under these regulations. The single family dwelling is a use by right.

D. Conclusion

In applying a balancing test, Staff finds the request would not substantially alter the views enjoyed by neighbors or the character of the neighborhood, and such as that there are no alternative means to obviate the property owner's predicament without a variance.

Recommendation

Staff recommends approval of the variance to allow a forty one and nine tenths feet (41.9') height requested by Jeffrey Schott represented by Lynn Klopstad. The building height will have negligible impacts on the adjacent properties.

1. The Applicant is required to pay all fees associated with the Public Notice prior to a Resolution being recorded.

Loreta asked if the house was already built and was it built to the specifications that were in the construction documents. Where was the lapse?

Alex replied that the miss was in the way we measure the heights having to be out from the structure makes it difficult to guarantee what was shown on the plans is what is going to end up on the site, because there is a lot of soil that gets moved around and drainage has to be insured. Staff did discuss the option to have grade come up about two feet, ten feet out from the home but that negatively impacted the drainage.

George asked if that is an option to raise the grade. Raise it more than two feet to have positive drainage.

Alex replied that might not be an option since the homeowner can go back and remove the fill after they have their Certificate of Occupancy.

Marcus added that he struggles with this when there is a very flat area, it seems to him that you know that the standard drainage is going to be at time of build, foundation plus an angle, out ten feet is basic geometry. The final chimney shown in photo is not the chimney shown on the drawings. The actual chimney is much higher than the drawings. Did something change in building requirements?

Alex replied there has been a change that required an extra room for venting/exhaust purposes of the chimney. As far as he knows it has been built to plan.

Marcus continued looking at the photo again and added that there is a cap and stone, and it looks like the vents are much lower.

George added that rule of thumb when you build a chimney you want it to be at least two feet above the peak. Looks like the actual pipe is higher and then it has to be capped.

Marcus asked if the letter telling the homeowners that they needed an ILC (Improvement Location Certificate) indicate that it was included per the County's regulations.

Alex replied that yes it did. We sent out a standard letter.

Marcus added the regulation is clear that chimneys, weather vanes, etc., are considered when measuring the height of a structure. The building itself is fine, but the chimney does not appear to be in spec. From the Building Department is that mandate or a mason's choice?

George added that a chimney is inspected. They have to firewall the chimney off, so the fire tape inside is inspected. Not sure if at that time the height of the pipe could have been cut. So now they add the stone work to make it look nicer and hide the pipes.

Loreta stated the opening at the top of the chimney looks bigger.

Marcus continued, is the actual height of the building per the County's regulations?

Alex replied yes, approximately 38 feet.

Loreta stated that it does not compromise the view and does look esthetically pleasing.

Marcus Davis asked for a motion. Loreta Silverio made a recommendation to approve the height variance for Lot 21, Sheep Mountain Ridge Estates-Height Variance with staff recommendations. Seconded by George Davis. All in Favor "aye" Any opposed. Marcus Davis, opposed. Motion carries.

Marcus asked for a motion to close the public hearing. George Davis approved, Loreta Silverio seconded. All in favor "aye". Any opposed. Public hearing is closed.

Robert Davis stated that he heard in this meeting regarding ridge height and chimneys that he wants to share with the committee that we are having and ad hoc committee to take a look at our height regulations. Our first meeting will be January 29th, 2020.

George asked if the staff was thinking of raising it or lowering the height requirements. What do other counties do?

Robert replied we are thinking of using a different method to estimate height. One of the considerations is do we look at weather veins and chimneys and add as part of the calculation. We are bringing together Steve Jensen, Scott Munn and Brian Dornbusch as part of our ad hoc committee to take a look at these issues.

Marcus added the Grand County Builders Association is a great resource also.

George asked if anyone has investigated what other counties around do.

Alex stated that we have started that process. We have looked at other counties and towns and even some local towns to see how their heights are measured.

Marcus added one of the problems he has with chimneys is looking at our photo of the building from tonight, anything that goes over our height requirements, what is the one thing we constantly ask to

happen? Have a color that blends in with the background. You have a sore thumb sticking up that is a completely different color than the roofline.

George agreed it is a good point.

Marcus continued this example tonight to him is pushing the envelope. The other reasons chimneys are a struggle is the building code changes and we want people to be safe. The chimneys do stick up further than is esthetically pleasing just to meet the building code and for us to limit the height because of that is difficult. Hoping there can be a compromise that says chimneys need to be of architectural design that doesn't create a visual draw. There are good points in the Three Lakes Design Review. On tonight's example that covered deck is a full structure and part of the house. In this case you are measuring 10 feet out from where?

Alex replied the steps.

Marcus continued except that our regulations state, we talk about grade change within the building footprint, and we talk about measuring 10 feet away from the structure. In my opinion, the structure ends at the footing for the covered roof, not the stairwell. The stairwell is not a structure it is an accessory.

George added in defense, for the building code, we still have to maintain the 3 foot frost. So when the steps were built they had to put in piers just in case in the future the building department looks at it and they might want to cover the walkway we are going to build it structurally sound.

Marcus agreed but added when you look at 5 foot change of grade where are you measuring? Are you measuring from the edge of the step to the furthest point out on the opposite side, because does that gets you your 5 foot, this could be in a negative. You stretch that out to the furthest reaches of every little bit of concrete, all of a sudden you have 5 foot change of grade and now you can go 40 feet. So is it building footprint, common living space footprint or is it all the additional stuff that goes with it. The frustration is where do you measure from?

Alex stated that is a good call because he believes policy has changed, based on the planner who is interpreting at the time.

Marcus and George feel these are good items to bring to your new committee.

Marcus Davis made a motion to adjourn the January 15th, 2020 Board of Adjustment meeting. George approved, Loreta seconded. All in favor "aye" Any Apposed. Meeting adjourned.

Meeting adjourned at 6:03 pm.
